

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

TAD BRADLEY,

Petitioner,

Case No. 2:14-cv-01548-YY

v.

OPINION AND ORDER

MARK NOOTH, Superintendent of Snake
River Correctional institution,

Respondent.

MOSMAN, J.,

On March 29, 2022, Magistrate Judge Youlee Yim You issued her Findings and Recommendation (“F. & R.”) [ECF 165]. Judge You recommends that I deny the Second Amended Petition for Writ of Habeas Corpus [ECF 154] and dismiss this case with prejudice. Additionally, she recommends that the Court decline to issue a Certificate of Appealability pursuant to 28 U.S.C. § 2253(c)(2). Petitioner filed objections [ECF 175] and Respondent responded [ECF 176]. I agree with Judge You.

STANDARD OF REVIEW

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of

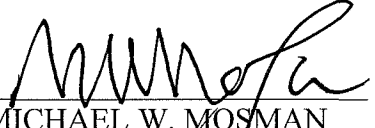
the magistrate judge as to those portions of the F. & R. to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F. & R. depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F. & R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge You's recommendation, and I ADOPT her F. & R. [ECF 165] as my own opinion. I DENY the Second Amended Petition for Writ of Habeas Corpus [ECF 154] and dismiss this case with prejudice. Additionally, I decline to issue a Certificate of Appealability on the basis that Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 22 day of June, 2022.


MICHAEL W. MOSMAN
Senior United States District Judge